

### **REMARKS**

This Amendment is filed in response to the Official Action mailed January 4, 2007. In this Amendment, claims 79, 90 and 117 are amended, claims 107-110 are canceled, new claims 118-128 are added and claims 80-89, 91-106 and 110-116 are unchanged. Following entry of this amendment, claims 79-106 and 111-128 shall be pending.

In the Office Action, claims 79-117 have been rejected based on prior art grounds. For the reasons set forth below, these rejections are hereby traversed.

#### **I. REJECTIONS UNDER 35 U.S.C. SECTION 103**

Claims 79-96, 100-108, 112 and 114-116 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Publication No. 2002/0169497 to Wholey et al. (*The Wholey et al. Publication*) in view of U.S. Patent No. 6,238,403 to Greene, Jr. et al. (*The Greene, Jr. et al. Patent*). Claims 79, 97-99, 107, 110 and 117 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent No. 6,730,119 to Smalling (*The Smalling Patent*) in view of *The Greene, Jr. et al. Patent*. For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

As presently amended, claim 79 is directed to a method for preventing leakage into a perigraft space between an endovascular graft that has been implanted in the lumen of a blood vessel of a human or veterinary patient and an adjacent portion of the blood vessel wall, said method comprising the steps of: providing a device comprising a solid member having expansile polymeric material disposed thereon, said expansile polymeric material being i) initially in a non-expanded state wherein a quantity of the polymeric material occupies a first volume and b) subsequently expandable to an expanded state wherein said quantity of the polymeric material occupies a second volume larger than the first volume and absorbs blood; inserting a cannula into said lumen of the blood vessel; disposing said endovascular graft over a distal end of said

cannula and over said adjacent portion of said blood vessel wall; introducing said device through said cannula and into a perigraft space between said endovascular graft and said blood vessel wall while said expansile polymeric material is substantially in its non-expanded state; allowing said polymeric material to expand to its expanded state within said perigraft space such that said device substantially fills said perigraft space.

*The Wholey et al. Publication* cannot be properly relied upon as rendering obvious the invention as recited in claim 79. For example, *The Wholey et al. Publication* does not teach disposing said endovascular graft over a distal end of said cannula and over said adjacent portion of said blood vessel wall as claimed. *The Wholey et al. Publication* discloses delivering a graft over an aneurysm, then penetrating the graft at a small port with a delivery device. Thus, the *Wholey* technique requires complicated positioning and manipulation of the distal end of the delivery device. The undersigned can find no disclosure of the method of the present invention in *The Wholey et al. Publication* as recited in claim 79, including disposing said endovascular graft over a distal end of said cannula and over said adjacent portion of said blood vessel wall.

*The Greene, Jr. et al. Patent* does not make up for this deficiency of *The Wholey et al. Publication*. *The Greene, Jr. et al. Patent* may teach a microcoil with expandable pellets, however the undersigned is unable to find any disclosure of disposing said endovascular graft over a distal end of said cannula and over said adjacent portion of said blood vessel wall as recited in claim 79.

Hence, it is clear that *The Wholey et al. Publication* cannot be properly relied upon to reject claim 79. Nor does *The Greene, Jr. et al. Patent* make up for the deficiencies of *The Wholey et al. Publication*. Accordingly, it is submitted that the rejection of claim 79 based on *The Wholey et al. Publication* and *The Greene, Jr. et al. Patent* should be withdrawn.

Claim 79 was also rejected based on *The Smalling Patent* in view of *The Greene, Jr. et al. Patent*. *The Smalling Patent* cannot be properly relied upon as rendering obvious the invention as recited in claim 79. For example, *The Smalling Patent* does

not teach disposing said endovascular graft over a distal end of said cannula and over said adjacent portion of said blood vessel wall as claimed. As best understood, *The Smalling Patent* discloses delivering a stent over an aneurysm, then penetrating the stent with a delivery device to deliver embolization material. Thus, the *Smalling* technique requires difficult positioning and manipulation of the distal end of the delivery device. The undersigned can find no disclosure of the method of the present invention in *The Smalling Patent*, including disposing said endovascular graft over a distal end of said cannula and over said adjacent portion of said blood vessel wall as recited in claim 79.

As previously discussed with regard to *The Wholey et al. Publication*, *The Greene, Jr. et al. Patent* does not make up for this deficiency of *The Smalling Patent*. *The Greene, Jr. et al. Patent* may teach a microcoil with expandable pellets, however the undersigned is unable to find any disclosure of disposing said endovascular graft over a distal end of said cannula and over said adjacent portion of said blood vessel wall as recited in claim 79.

Turning to claims 80-106 and 111-117, these claims depend from claim 79 and thus for at least the above reasons are also novel and unobvious over the cited prior art.

## **II. NEW CLAIMS**

Newly added claims 118-128 are believed to be patentable over the cited prior art, at least for reasons similar (but not identical) to those discussed with regard to claim 79. For example, independent claim 118 recites expanding a graft at said target location within said vessel such that a perigraft space is formed, said graft expanding over said distal end of said delivery device, which was not found in the cited prior art. In another example, independent claim 124 recites capturing said cannula between said graft and said vessel wall which is also was not found in the cited prior art. Hence, it is believed that claims 118-128 are novel over the cited prior art.

### **III. MISCELLANEOUS CORRECTIONS**

Claim 90 has been amended to correct a typographical error. Claim 117 has been amended to agree with amended claim 79. Claims 107-110 have been cancel in light of amendments to claim 79.

**CONCLUSION**

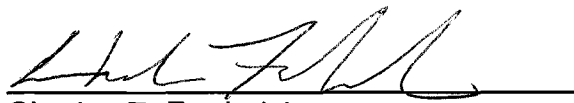
In view of the foregoing, it is submitted that pending claims 79-106 and 111-128 are now in condition for allowance. Hence an indication of allowability is hereby requested.

If for any reason direct communication with Applicants' attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any additional fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,

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